

**Introduced by Senator Bowen**

February 18, 2005

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An act to amend Section 25354.5 of the Health and Safety Code, relating to controlled substances.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 566, as introduced, Bowen. Controlled substances: removal actions.

Existing law requires the Department of Toxic Substances Control to take removal actions with respect to a hazardous substance that is an illegal controlled substance, including waste material from the unlawful manufacture of a controlled substance. The department is required to take specified actions upon the request of the local environmental health officer. The department is authorized to expend funds appropriated from the Illegal Drug Lab Cleanup Account in the General Fund for this purpose and to adopt regulations to implement these provisions, in consultation with appropriate law enforcement and local environmental agencies.

This bill would require the department, on or before January 1, 2007, to adopt regulations, in consultation with the Office of Environmental Health Hazard Assessment, to provide state and local agencies with standards and procedures for taking a remedial action at such a hazardous substance release site, including providing for a level of cleanup that would protect the health and safety of the future occupants of the site.

The bill would additionally authorize the designated local response agency to make this request to the department and would also make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 25354.5 of the Health and Safety Code is amended to read:

25354.5. (a) Any state or local law enforcement officer or investigator or other law enforcement agency employee who, in the course of an official investigation or enforcement action regarding the manufacture of any illegal controlled substance, comes in contact with, or is aware of, the presence of a substance that the person suspects is a hazardous substance at a site where an illegal controlled substance is or was manufactured, shall notify the department for the purpose of taking removal action, as necessary, to prevent, minimize, or mitigate damage that might otherwise result from the release or threatened release of the hazardous substance, except for samples required under Section 11479.5 to be kept for evidentiary purposes.

(b) (1) Notwithstanding any other provision of law, upon receipt of a notification pursuant to subdivision (a), the department shall take removal action, as necessary, with respect to any hazardous substance that is an illegal controlled substance, a precursor of a controlled substance, a material intended to be used in the unlawful manufacture of a controlled substance and any container for such a material, a waste material from the unlawful manufacture of a controlled substance, or any other item contaminated with a hazardous substance used or intended to be used in the manufacture of a controlled substance. The department may expend funds appropriated from the Illegal Drug Lab Cleanup Account created pursuant to subdivision (e) to pay the costs of removal actions required by this section. The department may enter into oral contracts, not to exceed ten thousand dollars (\$10,000) in obligation, when, in the judgment of the department, immediate corrective action to a hazardous substance subject to this section is necessary to remedy or prevent an emergency.

(2) The department shall, as soon as the information is available, report the location of any removal action that will be carried out pursuant to paragraph (1), and the time that the removal action will be carried out, to the local environmental health officer *or designated local response agency* within whose jurisdiction the removal action will take place, if the local

1 environmental officer *or designated local response agency* does  
2 both of the following:

3 (A) Requests, in writing, that the department report this  
4 information to the local environmental health officer *or*  
5 *designated local response agency*.

6 (B) Provides the department with a single 24-hour telephone  
7 number to which the information can be reported.

8 (c) (1) For purposes of Chapter 6.5 (commencing with  
9 Section 25100) or this chapter, any person who is found to have  
10 operated a site for the purpose of manufacturing an illegal  
11 controlled substance or a precursor of an illegal controlled  
12 substance is the generator of any hazardous substance at, or  
13 released from, the site that is subject to removal action pursuant  
14 to this section.

15 (2) During the removal action, for purposes of complying with  
16 the manifest requirements in Section 25160, the department, the  
17 county health department, the local environmental health  
18 officer, *or designated local response agency*, or their designee  
19 may sign the hazardous waste manifest as the generator of the  
20 hazardous waste. In carrying out that action, the department, the  
21 county health department, the local environmental health officer,  
22 *or designated local response agency*, or their designee shall be  
23 considered to have acted in furtherance of their statutory  
24 responsibilities to protect the public health and safety and the  
25 environment from the release, or threatened release, of hazardous  
26 substances, and the department, the county health department, the  
27 local environmental health officer, *or designated local response*  
28 *agency*, or their designee are not responsible parties for the  
29 release or threatened release of the hazardous substances.

30 (3) The officer, investigator, or agency employee specified in  
31 subdivision (a) is not a responsible party for the release or  
32 threatened release of any hazardous substances at, or released  
33 from, the site.

34 (d) ~~The~~ (1) *Except as provided in paragraph (2), the*  
35 department may adopt regulations to implement this section in  
36 consultation with appropriate law enforcement and local  
37 environmental agencies.

38 (2) *On or before January 1, 2007, the department shall adopt*  
39 *regulations, in consultation with the Office of Environmental*  
40 *Health Hazard Assessment, to provide state and local agencies*

1 *with procedures and standards for taking remedial actions with*  
2 *respect to any hazardous substance release that is an illegal*  
3 *controlled substance, a precursor of a controlled substance, a*  
4 *material intended to be used in the unlawful manufacture of a*  
5 *controlled substance, or a waste material from the unlawful*  
6 *manufacture of a controlled substance. The procedures and*  
7 *standards shall assure that the site of the release is cleaned to a*  
8 *level that the department determines would adequately protect*  
9 *the health and safety of all future occupants of the site.*

10 (e) The Illegal Drug Lab Cleanup Account is hereby created in  
11 the General Fund and the department may expend any money in  
12 the account, upon appropriation by the Legislature, to carry out  
13 the removal actions required by this section. The account shall be  
14 funded by moneys appropriated directly from the General Fund.

15 (f) The responsibilities assigned to the department by this  
16 section apply only to the extent that sufficient funding is made  
17 available for that purpose.